

# Wilkins Safety Group

## Weekly Update Newsletter



Welcome to this issue - Friday 15th July 2011 - of our Update Newsletter

Please feel free to forward this newsletter to colleagues and friends.

###



The following are some extracts from recent notifications from the HSE, hopefully they will prove interesting, especially the proposal for the HSE inspectors to start charging.

### Is HSE finished?

It's got a shrinking budget and its hands are tied. The Health and Safety Executive (HSE) has never had it so bad, and is now finalising plans to turn into a slim line pay-per-go enforcement agency, charging for everything from enforcement notices to routine advice and accident investigations.

The 35 per cent cut in government funds for HSE to take full effect by 2015, has necessitated a "Voluntary Exit Scheme" which has been "massively over-subscribed" by hacked off HSE staff."

In a perverse twist, the funding-driven job losses at the already understaffed HSE can be afforded - making people redundant is an expensive business - because the watchdog's budget for this year is stuffed with cash earmarked for life-saving safety campaigns outlawed by the government and with wages it couldn't spend because of a government-imposed recruitment freeze.

It's not that there is fat to trim. In 1994, HSE had 4,545 staff. By April 2005, this had fallen to 3,903. Five years later, in April 2010, the combined HSE and Health and Safety Laboratory (HSL) staffing figure was 3,702. Even before the current round of redundancies, the downward trend was continuing. Figures show by December 2010, total staffing had fallen to 3,611.

In January 2011, HSE said it did not know how much further its staffing would fall because it "had not agreed detailed budget allocations".

## Follow the money



One reason for the plummeting morale that is seeing staff rush for the door is HSE's strategy to replace the £84m it will lose each year from the government. Instead of a rational work plan designed to minimise deaths, injuries and ill-health at work, at least some of HSE's new priorities will follow the money.

One proposal for which it is currently awaiting the final approval of ministers is **"fee for fault"** charges for enforcement notices. It's already received the nod from HSE's parent Department for Work and Pensions and is now doing the rounds of other ministries and related committees.

"It is expected to have the draft proposals in their completed form available in the spring to early summer," said an HSE spokesperson. "Subject to the agreement of HSE's Board and Ministers, HSE would aim to begin operating the scheme from 1 April 2012."

HSE chair Judith Hackitt, commenting in December 2010, said the watchdog was "not clear" how much of the budget cut it could recoup through money-making schemes, but confirmed charging for enforcement notices and other HSE work was the watchdog's banker. "We are working on a proposal to charge those who create risks. A so-called: 'fee for fault' is one principle.



The idea being that those who are found not to be compliant with the law during an inspection should be charged for the work that HSE does following the issuing of a notice or other requirement for action to rectify the fault."

She added: "We believe that this approach is fair and equitable and will be welcomed by the vast majority of businesses who are compliant and who see those who take short cuts as getting away with an unfair competitive advantage. Such an approach should be seen by business as a way of levelling the playing field."

That's a prospect that has never been more remote, even for the most egregious crimes. Safety expert Howard Fidderman examined 110 cases where a workplace death occurred, and found only 46 resulted in a fine greater than 1 per cent of the offender's annual profits. Writing in the January 2011 issue of Health and Safety Bulletin, he noted death fines only

exceeded 1 per cent of turnover in six instances. Company directors remain unaccountable, with just 36 prosecuted for safety offences in 2009/10, out of which 27 resulted in a conviction.

The new offence of corporate manslaughter - "corporate homicide" in Scotland - has to date proved a damp squib. Instead of the anticipated dozen cases a year, there has been only two since the Act came into effect on 6 April 2008, and there have been no trials involving a medium-sized or large employer.



### Enforced changes

It is about to get a lot worse. In a 2 February 2011 letter to Derek Allen, head of Local Authority Regulation, HSE chief executive Geoffrey Podger indicated a new pared-back enforcement regime was being introduced "in the light of the reduction in resources for the Spending Review period and the Coalition Government's approach to regulation." He added: "Ministers may seek to make an announcement on this issue around the beginning of March."

This involves a dramatic reduction in enforcement activity which will see the vast majority of HSE-enforced workplaces exempted from any inspections.

Proactive inspections will be abandoned entirely in most workplaces outside of the nuclear, chemical and offshore sectors. In these remaining sectors, many of which HSE admit still carry a "significant risk", the letter says:

"HSE has identified three categorisations:-

1. Sectors which present significant risk and where in our judgment pro-active inspection remains necessary as part of the overall regulatory approach.
2. Sectors where there remains significant risk but proactive inspection is not considered a necessary or useful component of future interventions.
3. Sectors where, under the new approach, pro-active inspection is not justified in terms of cost-effectiveness."

The document adds: "The cessation of pro-active inspection in categories (1) and (3)... will "enable the reduction of HSE inspections by one-third from 2011/12 onwards."

Overall, the number of inspections will certainly drop to below 18,500 next year and could fall to about 15,000 a year, down from over 60,000 a decade ago. It is a move that has delighted health and safety minister Chris Grayling. Whitehall insiders have indicated he has been "crowing" in a memo to mandarins of his success in curtailing health and safety oversight.

Even to maintain this level of activity, HSE will rely on the **fee-for-fault** system to boost its coffers.

The HSE document sent to local authorities boss Derek Allen notes from April 2012, "cost recovery" will, with ministerial approval, mean HSE would "recover its cost where an intervention of any type (e.g. inspection, investigation of incident or complaint) shows there has been a material breach of the law that warrants remedial action." The letter proposes that local authority health and safety enforcers follow HSE's lead. Current proposed charge is to be about £133.00 per hour.

This has superficial appeal to many supporters of a more effective, punitive enforcement regime that targets bad players. But it works on the assumption there will be someone out there tracking down the rogues and bringing them to justice. HSE admits many firms presenting "significant risks" will now be exempted from all pro-active inspections.

With both inspections plummeting and most workplaces only coming to HSE's attention if they call in the watchdog themselves, there must be a concern that the threat of an open-ended charging system will discourage employers, unwilling to hand HSE a blank cheque, from reporting either accidents or injuries.

We would suggest that those companies who have the correct procedures do not have anything to worry about. Check with [info@wilkinssafety.co.uk](mailto:info@wilkinssafety.co.uk) to ensure you are one of those companies.

Finally....



## Death highlights green job dangers

A man was killed as the result of an explosion at a UK waste recycling plant which left his best friend seriously injured. The incident at the Sterecycle plant in Rotherham occurred mid-afternoon on 11 January 2011. South Yorkshire Police said a waste incinerator exploded and ripped a gaping hole in the side of the plant.

Michael Whinfrey, a 42-year-old father of three, was airlifted to hospital in Leeds where he later died. Peter Lindon Davis, 51, was taken to Sheffield's Northern General Hospital with serious, "potentially life-changing", head and body injuries. Both men had been trapped by the explosion, and had to be freed by fire-fighters.

Sterecycle suspended operations at the plant after the blast. The company's chief executive officer Tom Shields said: "We clearly regret this incident and have advised the Health and Safety Executive (HSE). We will urgently investigate the causes of the incident and ensure that all necessary actions are taken."

The company, whose Rotherham plant is in the middle of a rapid expansion, was voted 'one to watch' at the 'clean and green' Cleantech industry awards in November 2010. Sterecycle's website notes: "Design and construction works are already underway to increase the

capacity of the Rotherham plant to 240,000 tonnes per annum by mid 2011." In November 2010, its capacity stood at 100,000 tonnes.

The case is the latest to highlight potential risks to workers in 'green' industries. Latest statistics released by HSE in November 2010 confirmed the combined fatal and major injury rate in waste and recycling is still more than four times the average across all industries. A total of 416 out of every 100,000 waste and recycling employees suffered a fatal or major injury at work in 2009/10 compared with the all industry average rate of 102 per 100,000, the safety watchdog said.

###

If you would like to discuss any of the issues highlighted in this newsletter, then drop an email to Jon on [jon@wilkinssafety.co.uk](mailto:jon@wilkinssafety.co.uk) or call the office **01458 253682**



Your Business is Safer  
Your Business is Safer in Our Hands

**Have you visited our new website yet?** You will find all of this year's newsletters, Over 100 advice sheets and access to all the latest news from the HSE  
**Go to** <http://www.wilkinssafety.co.uk/>